

A regular meeting of the Marilla Town Board was held July 8, 2004 at 7:30 p.m. at the Marilla Town Hall, 1740 Two Rod Road, Marilla, New York. Officials present were:

John Foss, Supervisor
Fred Specht, Councilman
Barbara Spanitz, Councilman
George Gertz, Councilman
Warren Handley, Councilman

Supervisor Foss called the meeting to order and the Pledge of Allegiance to the Flag was given.

Communications

1. A large United States Flag was donated to the Town in memory of Kenneth R. Palmer, Stuart E. Palmer and Larry M. Palmer from Ann Palmer.

Committee Reports

Highway Superintendent Dave Pierce reported that the problem with the black top on Three Rod Road has been corrected. The work on East Avenue was scheduled to begin this Wednesday but the job was shut down due to funding and is now put on hold.

Councilman Spanitz reported that she met with the youth group for the Sesqui-centennial and all plans progressing smoothly.

Councilman Gertz reported that he had received a letter from Mr. Christen on Williston Road reporting the infestation of the hazardous hogweed on Williston Road. He stated that the County will be coming out to spray the infested area. The giant hogweed causes burning blisters and blotches after contact. He also reported that the County has forwarded the annual Hazardous Report for the Town of Marilla.

Councilman Handley reported that the Pavilion will be having their next free concert on July 11th at 2:00 p.m. the performer will be the Akron Community Band. He stated that the Pavilion Committee had purchased a flag that we will hang on the day of each concert, signifying that there is a concert that day. The Boys and Girls Club will be serving free refreshments during the concert on Sunday.

Councilman Specht reported that the Court Clerk has a new laser printer that was installed last week. He also stated that he had talked with Ben Pearce concerning the DSL line, Ben believed Verizon has installed the line and we should be ready to proceed.

Councilman Gertz stated that the Town Board had received a letter from Mr. Tamol concerning the various changes in speed zones on Two Rod Road. He explained to the resident that the Town had petitioned the State in 2002 to change the speed limit on Two Rod Road and they rejected it. He explained that the Town will forward his concerns to the Sheriff's Department asking if they could possibly step up patrol on Two Rod for some of the violations that Mr. Tamol was pointing out; such as unsafe passing and speeding.

Supervisor Foss reported that Kotas and Kotas audited Water District II and IV as required by Rural Development and a copy is on file with the Town Clerk's Office or in my Office. The reports were very positive and showed both accounts in excellent shape. He then stated that the Town's budget process will begin starting in early August and completed by the first week in September. We will publish a budget summary in our annual newsletter for September. He stated that everything seems to be moving forward in a positive manner for the Sesqui-centennial. He asked everyone to please have patience that week as we are going to be very busy trying to keep everything coordinated and provide the necessary support to all the groups and people involved. He asked everyone to pray for good weather and he looks forward to seeing you there. He also stated that there was a bottle can drive done by Carla Miley and her committee; Frederick Miley, John Hodur, Theresa and Gary Deinhart, Daniel Orlando and Thomas Prezyna

which raised \$1,200. The money will be used for the Variety Day Parade Prizes and other awards. This has enabled us to increase the prize money awarded which can help some of the contestants recoup some of their costs for their entry.

Elma Town Supervisor, Mike Nolan presented the Town Board with a Proclamation in commemoration of the Town of Marilla's 150th Year Anniversary.

Open Board Presentations From the Public

None

Old Business

Motion: Councilman Specht moved, seconded by Councilman Spanitz to approve Minutes from the Regular Meetings held on 6/10/04. Motion Carried.

New Business

Supervisor Foss stated that the Town Board met Tuesday evening with Mr. Schlossin and his attorney Mr. Sorgi concerning re-zoning the property on Three Rod Road. He stated that he asked our Town Attorney to prepare resolutions for this issue, the first resolution reads:

WHEREAS, the Town Board has received a request from Creekside Development, LLC and Robert Schlossin to rezone a parcel of land on Three Rod Road in the A Agricultural Zoning District of the Town from A- Agricultural to Rural Residential R-R; and

WHEREAS, pursuant to the Town Code of the Town of Marilla, the decision to rezone property is at the discretion of the Town Board; and

WHEREAS, the applicants have been given an opportunity to set forth their proposal before the Town Board at a work session open to the public; and

WHEREAS, the Town Board has carefully reviewed the request.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. That the Town Board does hereby agree to entertain the request to rezone the above parcel.
2. The Town Board directs that the request to rezone the above property be referred to the Town Planning Board for their recommendation to the Town Board.
3. This resolution shall take effect immediately.

Supervisor Foss hearing no Member of the Town Board offering to move this resolution, he proceeded to read the next resolution:

Motion: Councilman Gertz moved, seconded by Councilman Specht to approve the following resolution :

WHEREAS, the Town Board has received a request from Creekside Development, LLC and Robert Schlossin to rezone a parcel of land on Three Rod Road in the A Agricultural Zoning District of the Town from A Agricultural to Rural Residential R-R; and

WHEREAS, Section 210-5 A of the Town Code of the Town of Marilla provides that "The Town Board may from time to time, on its own motion, on petition or on recommendation of the Planning Board and in accordance with the laws of the State of New York, amend, supplement or repeal the regulations, provisions or district boundaries of this chapter." leaving the decision to rezone property at the discretion of the Town

Board; and

WHEREAS, the applicants have been given an opportunity to set forth their proposal before the Town Board at a work session open to the public; and

WHEREAS, the Town Board has carefully reviewed the request for rezoning and the Comprehensive Plan of the Town of Marilla and has determined that the proposed rezoning would be inconsistent with the Comprehensive Plan of the Town of Marilla which has designated that the portion of the Town where the parcel for which rezoning is requested as remaining agricultural and any rezoning of such parcel would therefore be contrary to and in violation of the provisions of the Comprehensive Plan; and

WHEREAS, permitting rezonings in violation of the provision of the Town's own Comprehensive Plan would constitute a violation of New York State Law and would create development pressures not only in that part of the Town of Marilla but in other parts of the Town of Marilla designated by the Comprehensive Plan to remain predominantly agricultural; and

WHEREAS, that portion of the Town of Marilla where the rezoning has been requested for the purpose of creating a major subdivision presently does not have public water available with sufficient quantities and with sufficient pressures to serve a major subdivision without significant modifications to the water system, which modifications would require approval of the Erie County Water Authority, the Erie County Health Department, the New York State Health Department and would be subject to review by the New York State Department of Agriculture and Markets because the Town of Marilla has adopted a lateral restriction policy limiting water services in excess of four inches at the request of the New York State Department of Agriculture and Markets and in addition such development would also be subject to review and/or approval by Rural Development as the water district that would service this parcel obtained grants and loans which loans were conditioned upon the Town of Marilla satisfying the requirements of the New York State Department of Agriculture and Markets.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. That the Town Board does hereby determine that the proposed rezoning request would be inconsistent with the plans for development of the Town of Marilla as set forth in the Comprehensive Plan which has designated that portion of the Town of Marilla to remain agricultural.
2. That any rezoning of property in that portion of the Town would create additional development pressure not only on that portion of the Town but in other areas of the Town also designated to remain agricultural in the Towns Comprehensive Plan.
3. That the area where the rezoning is requested currently does not have public water available in sufficient quantities and at sufficient pressures to adequately serve a major subdivision.
4. That the provision of water service to a major subdivision would require the construction of lateral water lines in excess of the size permitted under the Town of Marilla's lateral restriction policy which was adopted as a condition of the approval of the New York State Department of Agriculture and Markets and may constitute a violation of the terms of the conditions imposed by United States Rural Development as part of the grant and loan package provided for the water district which would serve the proposed development.

5. For the reasons outlined above the Town Board is not willing to entertain a request to rezone the above property at this time and as a courtesy to the applicants is advising them of its decision without first requiring them to undertake an extensive and expensive process which would ultimately not result in the requested rezoning.
6. This resolution shall take effect immediately.

Discussion from the Town Board:

Councilman Specht commented that Mr. Schlossin knew when he purchased this property that it was zoned agricultural and he is not in favor of re-zoning. If the Town does this for Mr. Schlossin we would have to do it for everyone.

Councilman Handley stated that he is in agreement with Councilman Specht. He stated that the Town has been working hard to keep this a rural town and feels we should keep the properties that are zoned agricultural in agriculture.

Councilman Gertz commented that he felt this would be spot zoning and a subdivision in that area could put a strain on the Fire Company.

Councilman Spanitz stated that she feels it is rural and should stay rural and she is not in favor of spot zoning.

Supervisor Foss explained that he had just read an article about sprawl and felt that if the Town re-zones these agricultural areas it would put pressure on the farmers. Land becomes more valuable and it becomes too expensive for farmers to rent land to farm. He stated this is not in our comprehensive plan. He would like to see growth move toward the city.

Councilman Handley commented that other Towns have commented that we are a role model for other communities, he wants Marilla to keep up its rural character.

The above resolution was duly put to a roll call vote at a regular meeting of the Town Board on July 8, 2004, the results of which were as follows:

Councilman Spanitz – Aye	Councilman Gertz – Aye
Councilman Handley – Aye	Councilman Specht – Aye
Supervisor Foss – Aye	
Motion Carried.	

Motion: Councilman Handley moved, seconded by Councilman Spanitz to approve the following resolution concerning setbacks:

WHEREAS, the Town Code of the Town of Marilla provides for minimum front, rear and side set backs; and

WHEREAS, as a part of the building permit application, all applicants have been required to certify that the structure being constructed conforms with the applicable front, rear and side set back requirements; and

WHEREAS, in spite of such certification requirements, the Town Building Department has determined that a number of structures constructed under building permits issued by the Town Building Department have not met the front, rear and/or side set back requirements as set forth in the approved plans for such structures and the Town Building Department has been forced to issue stop work orders and require that an application made to the Town Zoning Board of Appeals for a variance from the minimum set back requirements; and

WHEREAS, the Town Board has determined that it is in the best

interest of the Town of Marilla that this situation not be allowed to continue and that all new structures must be initially constructed in accordance with the plans as submitted and approved by the Town Building Department and that all front, rear and side set backs be met.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD AS FOLLOWS:

1. That all applications for building permits shall clearly set forth the minimum front, rear and side set requirements applicable to the structure for which the building permit is sought.
2. That all building permits shall require that once the wall foundation or slab foundation is constructed, that a spotted survey prepared by a licensed surveyor or engineer and certified to the Town of Marilla Building Department be submitted to the Town Building Department specifically setting forth on such survey the distance from the centerline of the road to the foundation and the distance from the side lot lines and rear lot lines to the foundation.
3. That until such spotted survey is submitted to the Town Building Department and reviewed by the Town Building Department, no further construction shall be permitted on the site.
4. That if the spotted survey shall show that the foundation does not meet the approved front, rear and/or side set back requirements, such foundations must be removed and reinstalled in compliance with the requirements of the Town Code and the building permit previously issued for such construction.
5. This resolution shall take effect immediately.

Roll Call Vote:

Councilman Spanitz – Aye

Councilman Gertz – Aye

Councilman Handley – Aye

Councilman Specht – Aye

Supervisor Foss – Aye

Motion Carried.

Motion: Councilman Gertz moved, seconded by Councilman Specht to approve the following resolution:

WHERAS, Medicaid is the backbone of the nation's health care system, serving the vital needs of millions of Americans, and

WHERAS, today, Medicaid costs federal, state and local governments almost \$250 billion and enrolls 47 million clients nationwide, making it the single largest expenditure in most state budgets, and

WHEREAS, New York State has the highest percentage of eligible residents enrolled in Medicaid in the nation, which costs \$36 billion annually or the equivalent of \$1,890 for every state resident, and

WHEREAS, unlike most states, New York funds a substantial portion of its Medicaid costs at the local level, with the counties and New York City required to pay 50% of the non-federal share of most Medicaid services except for long-term care, for which counties contribute 20%, and

WHEREAS, on average counties Contribute 34% to the total cost of Medicaid funded by New York State, and

WHEREAS, in contrast, North Carolina, the only other state that requires counties to contribute to a broad range of Medicaid services, collects about 15 percent of their non-federal Medicaid spending from local taxpayers, and

WHEREAS, the Erie County local share of the Medicaid costs rose to \$158 Million in 2003, from \$141 million in 2002 and is projected to

increase to almost \$175 million in 2004, and

WHEREAS, county government across New York State are struggling to cover state mandated programs like Medicaid, with some counties forced this year to pass budgets that contain significant property tax and sales tax increases, and

WHEREAS, Erie County will have to consider reducing support for non-mandated county services, raising property taxes or enacting an additional sales tax if the local share of Medicaid is not capped or rescinded by New York State, and

WHEREAS, a bill was introduced in the New York State Assembly (A.9924), which would amend the social services law and establish the "Local Taxpayer Relief Act of 2004," which would limit certain Medicaid expenses paid by a social services district, and

WHEREAS, IF APPROVED THE "local Taxpayer Relief Act of 2004" (A.9924) would cap the local share of Medicaid beginning April 1, 2004 by relieving local social services districts from responsibility for paying to the state any amount that exceeds what was paid to the state from April 1, 2003 to March 31, 2004,

NOW, THEREFORE, BE IT

RESOLVED, that The Town of Marilla is committed to providing medical services to low income and uninsured residents, and be it further

RESOLVED, that the Town of Marilla is devoted to prudent and responsible fiscal decision-making to ensure the long-term viability of Erie County, and be it further

RESOLVED, that The Marilla Town Board supports the introduction of legislation in the Senate and Assembly that will cap, control or rescind the local share of Medicaid, and be it further

RESOLVED, that The Town of Marilla requests that the New York State Senate introduce a bill similar to the "Local Taxpayer Relief Act of 2004" (A.9924) or other legislation that will control or cap the local share contribution of Medicaid, and be it further

RESOLVED, that certified copies of this resolution be forwarded to New York State Governor George E. Pataki, New York State Senate Majority Leader Joseph L. Bruno, New York State Assembly Speaker Sheldon Silver, and the Western New York delegation to the New York State Legislature.

Roll Call Vote:

Councilman Spanitz – Aye

Councilman Gertz – Aye

Councilman Handley – Aye

Councilman Specht – Aye

Supervisor Foss - Aye

Motion Carried.

Motion: Councilman Spanitz moved, seconded by Councilman Handley to authorize payment for repairs on the elevator at the Marilla Free Library for \$1,569. Motion Carried.

Motion: Councilman Handley moved, seconded by Councilman Spanitz to approve a 30 day extension to the end of August for Marilla Electric to complete the electrical upgrade at the Town Hall. Motion Carried.

Report of Town Officials

A written report from the Town Engineer was read by Supervisor Foss; Rural Development has not yet allocated funds for Water District No. 5. They will be re-pooling their funding money during the month of August. At that time, we expect that they will allocate the funds for the district. Nussbaumer inspected the drainage at the Borowski residence on Two Rod Road. We recommended remediation measures, and gave the report to John Fronczek.

Building Inspector John Fronczek submitted a written report with 11 building applications received totaling fees of \$1340.00 building permits issued with a value of \$393,900, 14 inspections were made, and 2 complaints were acted on. A total of 213 acts of official business were made for the month of June. Both Scott Rider and John

Fronczek attended a seminar on Site Plan Review and Special Use Permit Review sponsored by the County.

Town Assessor, Kandace Wittmeyer reported that the final roll was printed and in the Assessors Office.

Planning Board minutes were received and posted.

Conservation Advisory Board minutes have been received and posted.

Marilla Fire Company Auxillary representative Joyce Cullen thanked Dave Pierce and his men for helping to take down the building at the Firemen's Grounds, the new building is now up and ready for the carnival.

Councilman Gertz stated that the Historical book should be out next week, they can be purchased at the General Store, Country Crossroads Florist Shop, and the Town Hall.

Open Board Presentations

Councilman Specht stated that he had just traveled to see the Sound of America, this organization takes musical students from all 50 states. Right now they are on their way to Austria, Germany and France, they play in Cathedrals. He explained there were only 12 students from New York State and 2 of those twelve were from Iroquois School. It was beautiful to hear the best of the best.

Supervisor Foss stated that Councilman Specht attended a meeting for the Relay for Life that we received a certificate and will be presented with a tree donated to the Town by Seasonal Landscape.

Supervisor Foss read a card received from the Elma Historical Society congratulating the Town on its Sesquicentennial Anniversary. A poem was included written by Sue Howe Blazak and many signed the card. The poem goes as follows:

The Birth of A Town

“Hist’ry Awakens The Past”

In our hearts, our lives and our minds.

In Marilla there’s a spirit...

Of past and present that binds.

‘Twas in Eighteen fifty –four....

Early settlers’ pride and foresight,

Formed a town in Erie County...

That would be a guiding light”

The name for the town honored...

Marilla Rogers, teacher/wife,

Who touched the hearts of the townsfolk,

Hence, a tribute to her life.

One hundred fifty years o’er,

Marilla now shines like a star.

Spirit, Growth, Progress and Friendship...

Stepping stones...”She” walked thus far.

“Hist’ry RevivesThe Future”...

Marilla will keep climbing high,

In Courage, Faith, Honor, Truth...

Past, Present, Future...One Tie!”

All claims have been previously reviewed by Councilman Handley and Councilman Gertz.

Motion: Councilman Handley moved, seconded by Councilman Gertz to approve the claims as follows:

General Fund Claims, Vouchers 282-333	\$	18,225.21
Highway Fund Claims, Vouchers 110-119	\$	12,235.79
Special Districts		
Sanitation (SR), Vouchers 67-75	\$	9,386.90
Special Fire, Voucher 7	\$	29,332.50
Water District #2, Vouchers 14-15	\$	3,656.84
Water District #3, Voucher 7	\$	1,306.94
Water District #4, Vouchers 6-7	\$	2,039.34
Community Development PACE	\$.00
Community Develop. HUD	\$.00

Motion Carried.

Motion: Councilman Spanitz moved, seconded by Councilman Specht to adjourn the meeting at 8:10 p.m. Motion Carried.

Respectfully Submitted,

_____	Town Clerk	_____	Supervisor
_____	Councilman	_____	Councilman
_____	Councilman	_____	Councilman